

DEC 13 2005

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

CLEOFAS VALLEJO CELIS; et al.,

Petitioners,

v.

ALBERTO R. GONZALES, Attorney
General,

Respondent.

No. 04-75575

Agency Nos. A75-682-169
A75-682-170

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 5, 2005^{**}

Before: GOODWIN, TASHIMA, and FISHER, Circuit Judges.

Cleofas Vallejo Celis and Maria Marcos Orozco Gonzalez, husband and wife and natives and citizens of Mexico, petition for review of the Board of Immigration Appeals' ("BIA") denial of their motion to reopen removal

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

proceedings. We have jurisdiction pursuant to 8 U.S.C. § 1252. Reviewing for abuse of discretion, *Bhasin v. Gonzales*, 423 F.3d 977, 983 (9th Cir. 2005), we deny the petition for review.

The BIA did not abuse its discretion in finding that the motion to reopen was not timely filed, or in rejecting petitioners' request for equitable tolling of the filing deadline. To invoke equitable tolling, petitioners must demonstrate they acted with due diligence. *Socop-Gonzalez v. INS*, 272 F.3d 1176, 1193 (9th Cir. 2001) (*en banc*). Here, petitioners made no showing of diligence, failing to explain why they waited at least eight months after retaining current counsel to file their motion to reopen. *Cf. Iturribarria v. INS*, 321 F.3d 889, 899 (9th Cir. 2003) (assuming truth of petitioner's assertions concerning his former counsel's deceptive acts, ninety-day limitation period was tolled until petitioner's meeting with new counsel).

PETITION FOR REVIEW DENIED.